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DATE OF DEPOSIT: February 13, 2004

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*Martha J. Knight 2/13/04*  
Signature

RCE/1600 #31  
GR

**PATENT**

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

**In re Application of:**

Gerard Francis Barry et al.

Serial No.: 09/464,099

Filed: December 16, 1999

For: GLYPHOSATE-TOLERANT 5-ENOLPYRUVYLSHIKIMATE-3-PHOSPHATE SYNTHASE

Group Art Unit: 1644

Examiner: M. Belyavskyi

Atty. Dkt. No.: 11899.0175.DVUS01  
(MOBT:175--2/WAA)

**REQUEST FOR CONTINUED EXAMINATION UNDER 37 C.F.R. § 1.114.**

Mail Stop RCE  
Commissioner for Patents  
P. O. Box 1450  
Alexandria VA 22313-1450

Sir:

This is a request for continuing examination under Rule 114 (37 CFR § 1.114) of copending prior application Serial No. 09/464,099, filed on December 16, 1999, entitled "GLYPHOSATE -TOLERANT 5-ENOLPYRUVYLSHIKIMATE-3-PHOSPHATE SYNTHASES."

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The above-identified prior application in which no payment of the issue fee, abandonment of, or termination of proceedings has occurred, is hereby expressly abandoned as of the filing date of this new application. Please use all the contents of the prior application file wrapper, including the drawings, as the basic papers for the new application.

- 1. Enter the unentered amendment previously filed on \_\_\_\_\_ under 37 C.F.R. § 1.116 in the prior nonprovisional application.
- 2. Preliminary Remarks are enclosed, which enclose a copy of the original U.S. Patent No. 5,776,760.
- 3. This application is filed by fewer than all the inventors named in the prior application, 37 C.F.R. § 1.53(d)(4).
- (a) **DELETE** the following inventor(s) named in the prior non-provisional application:
- (b) The inventor(s) to be deleted are set forth on a separate sheet attached hereto.
- 4. A Power of Attorney is enclosed.
- 5. A Supplemental Information Disclosure Statement (IDS) is enclosed.
  - (a) PTO-1449.
  - (b) Copies of IDS citations not previously submitted.
- 6. Please charge all fees related to this filing to Howrey Simon Arnold & White Deposit Account No. 01-2508/11899.0175.DVUS01/WAA. The fee is calculated below.

FEE SHEET

| FOR                               | NUMBER<br>FILED | NUMBER<br>EXTRA | RATE    | Fee      |
|-----------------------------------|-----------------|-----------------|---------|----------|
| Basic Fee -----                   |                 |                 |         | \$770.00 |
| Total Claims                      | 4- 20 =         | 0 X             | \$18.00 | \$0.00   |
| Independent<br>Claims             | 2- 3 =          | 0 X             | \$86.00 | \$00.00  |
| Multiple Dependent Claim(s) ----- |                 | 0               |         | \$0.00   |

**TOTAL FILING FEES:** **\$770.00**

- 7. Applicant is entitled to Small Entity Status for this application.
- (a) A small entity statement is enclosed.
- (b) A small entity statement was filed in the prior nonprovisional application and such status is still proper and desired.
- (c) Small entity status is no longer claimed.
- 8. Should any additional fees be required for any reason relating to the enclosed materials, or should an overpayment be included herein, the Commissioner is authorized to deduct or credit said fees from or to Deposit Account No. 01-2508/11914.0175.DVUS01.
- 9. The Commissioner is requested to grant Applicants a filing date in accordance with Rule 1.53.
- 10. Priority of application Serial No. 09/137,440 filed on August 20, 1998 in the country of United States is claimed under 35 U.S.C. § 120. This application is a divisional application of U.S. patent application serial number 09/137,440, filed August 20, 1998, now U.S Patent No. 6,248,876, which is a continuation of U.S. patent application serial number 08/833,485 filed April 7, 1997, now U.S. Patent No. 5,804,425, which is a continuation of U.S. patent application serial number

08/306,063 filed September 13, 1994, now U.S. Patent No. 5,633,435 which is a continuation-in-part of U.S. patent application serial number 07/749,611 filed August 28, 1991, now abandoned, which is a continuation-in-part of U.S. patent application serial number 07/576,537 filed August 31, 1990, now abandoned.

11. Address all future communications to:

Janelle Waack  
HOWREY SIMON ARNOLD & WHITE, LLP  
750 Bering Drive  
Houston, Texas 77057  
(713) 787-1400

12. Other: \_\_\_\_\_.

13. Return Receipt Postcard.

It is understood that secrecy under 35 U.S.C. § 122 is hereby waived to the extent that if information or access is available to any one of the applications in the file jacket of a 37 C.F.R. § 1.53(d) application, be it either this application or a prior application in the same file jacket, the Patent and Trademark Office may provide similar information or access to all the other applications in the same file jacket.

Respectfully submitted,



Janelle D. Waack  
Reg. No. 36,300

Attorney for Assignee  
MONSANTO TECHNOLOGY LLC

Date: February 13, 2004